

Apr. 29. 2010 3:37PM

No. 0343 P. 3/6

IN THE COUNTY COURT OF PIKE COUNTY, MISSISSIPPI

RACHEL JAMES

FILED
PIKE COUNTY, MISS

PLAINTIFF

VERSUS

APR 21 2010 CIVIL ACTION NO. 10-

ALLSTATE INSURANCE

ROSE A GRAVES
CIRCUIT CLERK

DEFENDANT

BY

COMPLAINT

COMES NOW Rachel James, plaintiff in the above captioned matter, by and through counsel and file this her complaint for damages against Allstate Insurance Company, and for this cause of action would show unto the Court the following:

COUNT I

1. Plaintiff, Rachel James is an adult resident citizen of Pike County, Mississippi residing at 1053 Frank Road, McComb, Mississippi 39648.
2. At all times herein mentioned, the Defendant, is an Illinois Corporation, authorized and doing business in the State of Mississippi. That the Allstate Insurance Company may be served by service upon the Commissioner of Insurance of the State of Mississippi, Honorable Mike Chaney, 501 North West Street, 10th Floor, Suite 1001, Jackson, Mississippi 39201.
3. At all times herein relevant the Defendant, Allstate Insurance Company, agreed to provide certain automobile insurance under policy number 000095790413, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference. -95730413-
4. The Plaintiff, Rachel James, has paid premiums due under said insurance policy to Defendant, Allstate Insurance Company, at all times relevant herein and further, Plaintiff has performed all obligations under said policy on her part.
5. On or about July 30, 2009, Frank James, an insured driver, was driving

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the insured vehicle, a 2004 Dodge Ram 1500, when it unexplainedly quit in close proximity to his residence. Mr. James left the vehicle to seek assistance and upon returning to the vehicle noticed smoke coming from underneath the front dash. He attempted to extinguish the fire but was unsuccessful and as result of the said fire the vehicle was rendered a total loss.

6. Plaintiff, Rachel James, filed a claim under the aforesaid policy of insurance for the loss of value of the automobile. The Defendant has failed and refused to properly and timely investigate, adjust and pay said claim, breaching its contract with the Plaintiff herein.

7. Plaintiff received a letter denying the claim dated December 10, 2009. Plaintiff in writing through undersigned counsel requested a basis for the denial and that request was refused.

COUNT II

Plaintiff incorporates paragraphs 1 through 6 as if fully copied herein.

7. The conduct of the Defendant rises to the level of a tortious breach of contract for which the Plaintiff, Rachel James, is entitled to punitive or exemplary damages in addition to the actual damages suffered as a result of the breach of the insurance contract.

8. As a result of the aforementioned wrongful conduct of the Defendant, the Plaintiff has suffered damages under the terms of the insurance policy and damages for the lost value of the vehicle, the lost of use of the insured vehicle, and damages incidental thereto.

9. As a further proximate result of the wrongful conduct of the Defendant, the Plaintiff, Rachel James, has suffered anxiety, worry, mental and emotional distress and other incidental damages, and general damages in a sum to be determined at trial.

10. The Defendant has willfully and intentionally wronged the Plaintiff or has

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treated the Plaintiff with such gross and reckless negligence as to justify the imposition of punitive damages in a sufficient amount to punish and deter the Defendant and others similarly situated, from engaging in such reprehensible conduct.

11. Defendant's willful breach of contract entitles the Plaintiff to an award of attorneys fees.


COUNT III

WHEREFORE PREMISES CONSIDERED, Plaintiff, Rachel James, brings this her complaint to recover actual damages of \$50,000 and punitive damages of \$250,000 from the Defendant, Allstate Insurance Company, and demands judgment against it for actual damages and putative damages as this Court may so determine at trial, together with prejudgment and post judgment interest thereon at the legal rate and costs of court expended herein.

Respectfully Submitted,

RACHEL JAMES

By: 
RONALD L. WHITTINGTON


BEN L. GILBERT, JR.

RONALD L. WHITTINGTON, MSB #7173
BEN L. GILBERT, JR. MSB #103221
ATTORNEYS AT LAW
P.O. DRAWER 1919
229 MAIN STREET
MCCOMB, MS 39648
601/684-8888

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**Service of Process
Transmittal**

04/23/2010

CT Log Number 316522311



TO: Hattie Booth
Allstate Insurance Company
2775 Sanders Road, Corp Litigation --A6
Northbrook, IL 60062-6127

RE: Process Served in Mississippi

FOR: ALLSTATE INSURANCE COMPANY (Domestic State: IL)

0144565652

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Rachel James, Pltf. vs. Allstate Insurance, Dft.
Name discrepancy noted.

DOCUMENT(S) SERVED: Letter from Department of Insurance, Summons, Complaint

COURT/AGENCY: Pike County Circuit Court, MS
Case # 10-0507

NATURE OF ACTION: Insurance Litigation - Policy benefits claimed for damages sustained to car by fire,
policy #000095790413

ON WHOM PROCESS WAS SERVED: C T Corporation System, Flowood, MS

DATE AND HOUR OF SERVICE: By Certified Mail on 04/23/2010 postmarked on 04/22/2010

APPEARANCE OR ANSWER DUE: Within 30 days of service

ATTORNEY(S) / SENDER(S): Ronald L. Whittington
229 Main Street
McComb, MS 39648
601-684-8888

REMARKS: Service of Process was originally made on the Department of Insurance and
forwarded to CT Corporation System as the registered agent. *Service was made by
mail under Rule 4(c)(3) of the Mississippi Rules of Civil Procedure.

ACTION ITEMS: CT has retained the current log, Retain Date: 04/23/2010, Expected Purge Date:
04/28/2010
Image SOP
Email Notification, Patti Cummings pgarc@allstate.com
Email Notification, Hattie Booth HBOOTH@ALLSTATE.COM
Email Notification, Bill Woodro wwoodro@allstate.com

SIGNED: C T Corporation System
ADDRESS: 645 Lakeland East Drive
Suite 101
Flowood, MS 39232
TELEPHONE: 601-936-7400

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MISSISSIPPI
INSURANCE DEPARTMENT
P.O. BOX 75
JACKSON, MISSISSIPPI 39205-0075

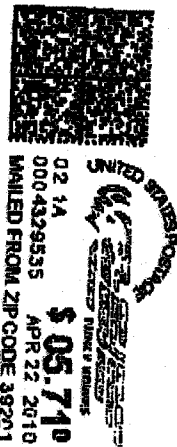
CERTIFIED MAIL
RETURN RECEIPT REQUESTED

7009 0080 0001 1816 0579



CERTIFIED MAIL

Allstate Insurance Company
c/o C.T. Corporation System of
Mississippi
645 Lateland East Drive
Suite 101
Flowood, MS 39232



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0004329535
MAILED FROM ZIP CODE 39201
\$05.71
APR 22 2010